

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

<b>UNITED STATES OF AMERICA,</b>	)	<b>CASE NO. 8:06CR316</b>
	)	
<b>Plaintiff,</b>	)	
	)	
<b>vs.</b>	)	<b>MEMORANDUM</b>
	)	<b>AND ORDER</b>
	)	
<b>JOSE G. VALDIVIA,</b>	)	
	)	
<b>Defendant.</b>	)	

This matter is before the Court on the Defendant's notice of appeal (Filing No. 78) and the copy of the memorandum submitted by the Clerk (Filing No. 79).

The Defendant was represented in this Court by retained counsel. He timely filed his notice of appeal pro se. In his notice of appeal, he requested appointed counsel and stated that he has "no more funds for an attorney." (Filing No. 70.)

Federal Rule of Appellate Procedure 24(a)(1) provides that a defendant requesting appointed counsel on appeal must file in district court a motion for leave to proceed in forma pauperis and attach an affidavit that, in pertinent part, "shows in the detail prescribed by Form 4 of the Appendix of Forms the party's inability to pay or give security for fees and costs." Fed. R. App. P. 24(a)(1)(A). If the Defendant submits a motion and affidavit as required by Rule 24(a)(1), the Defendant's request will be reconsidered.

**IT IS ORDERED:**

1. The Defendant is denied, without prejudice, leave to proceed in forma pauperis on appeal; and

2. The Clerk shall request the Defendant's most recent address from the U.S. Marshal's office and mail a copy of this order to the Defendant at that address.

DATED this 20<sup>th</sup> day of February, 2008.

BY THE COURT:

s/Laurie Smith Camp  
United States District Judge